



# Finance Act 1990

## 1990 CHAPTER 29

### PART II

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER II

#### MANAGEMENT

#### *Returns and information*

#### **90 Income tax returns**

- (1) The following sections shall be substituted for sections 8 and 9 of the Taxes Management Act 1970 (return of income)—

#### **“8 Personal return**

- (1) For the purposes of assessing a person to income tax, he may be required by a notice given to him by an inspector—
- (a) to make and deliver to the inspector within the time limited by the notice a return containing such information as may be required in pursuance of the notice, and
  - (b) to deliver with the return such accounts and statements, relating to information contained in the return, as may be required in pursuance of the notice.
- (2) Every return under this section shall include a declaration by the person making the return to the effect that the return is to the best of his knowledge correct and complete.

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- (3) A notice under this section may require different information, accounts and statements for different periods or in relation to different descriptions of source of income.
- (4) Notices under this section may require different information, accounts and statements in relation to different descriptions of person.

#### **8A Trustee's return**

- (1) For the purpose of assessing a trustee of a settlement, and the settlors and beneficiaries, to income tax an inspector may by a notice given to the trustee require the trustee—
  - (a) to make and deliver to the inspector within the time limited by the notice a return containing such information as may be required in pursuance of the notice, and
  - (b) to deliver with the return such accounts and statements, relating to information contained in the return, as may be required in pursuance of the notice;and a notice may be given to any one trustee or separate notices may be given to each trustee or to such trustees as the inspector thinks fit.
- (2) Every return under this section shall include a declaration by the person making the return to the effect that the return is to the best of his knowledge correct and complete.
- (3) A notice under this section may require different information, accounts and statements for different periods or in relation to different descriptions of source of income.
- (4) Notices under this section may require different information, accounts and statements in relation to different descriptions of settlement.

#### **9 Partnership return**

- (1) Where a trade or profession is carried on by two or more persons jointly, for the purposes of making an assessment to income tax in the partnership name an inspector may act under subsection (2) or (3) below (or both).
- (2) An inspector may by a notice given to the partners require such person as is identified in accordance with rules given with the notice—
  - (a) to make and deliver to the inspector within the time limited by the notice a return containing such information as may be required in pursuance of the notice, and
  - (b) to deliver with the return such accounts and statements as may be required in pursuance of the notice.
- (3) An inspector may by a notice given to any partner require the partner—
  - (a) to make and deliver to the inspector within the time limited by the notice a return containing such information as may be required in pursuance of the notice, and
  - (b) to deliver with the return such accounts and statements as may be required in pursuance of the notice;

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and a notice may be given to any one partner or separate notices may be given to each partner or to such partners as the inspector thinks fit.

- (4) Every return under this section shall include—
  - (a) a declaration of the names and residences of the partners;
  - (b) a declaration by the person making the return to the effect that the return is to the best of his knowledge correct and complete.
- (5) A notice under this section may require different information, accounts and statements for different periods or in relation to different descriptions of source of income.
- (6) Notices under this section may require different information, accounts and statements in relation to different descriptions of partnership.”
- (2) In section 12 of that Act (information about chargeable gains)—
  - (a) in subsection (1) for the words “Section 8” there shall be substituted the words “Sections 8 and 8A” and for the words “it applies” there shall be substituted the words “they apply”;
  - (b) in subsection (2) after the words “section 8” there shall be inserted the words “or section 8A”;
  - (c) in subsection (4) the words “of income of a partnership” shall be omitted.
- (3) In section 93 of that Act (penalties) in subsection (1) for the words “9 of this Act (or either” there shall be substituted the words “8A or 9 of this Act (or any”.
- (4) In section 95 of that Act (penalties) in subsection (1)(a) for the words “9 of this Act (or either” there shall be substituted the words “8A or 9 of this Act (or any”.
- (5) This section applies where a notice to deliver a return was, or falls to be, given after 5th April 1990.

## **91 Corporation tax returns**

- (1) Section 11 of the Taxes Management Act 1970 (return of profits) shall be amended as follows.
- (2) In subsection (1), for the words from “the profits” to the end there shall be substituted the words “such information as may be required in pursuance of the notice together with such accounts, statements and reports as may be so required.”
  - (1A) The information which a company may be required to supply under this section is information which is relevant to the application of the Corporation Tax Acts to the company; and the accounts, statements and reports which a company may be so required to supply are accounts, statements and reports which are so relevant.”
- (3) In subsection (2), for the words “of profits and losses arising in” there shall be substituted the word “for”.
- (4) In subsection (3) (return to include declaration that return is correct and complete)—
  - (a) after the word “declaration” there shall be inserted the words “by the person making the return”; and
  - (b) after the word “is” there shall be inserted the words “to the best of his knowledge”.

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- (6) In subsection (8), the words from “or different” to the end shall be omitted.
- (7) The following subsection shall be inserted after subsection (8)—
  - “(8A) A return under this section shall be amended by the company delivering to the inspector a document in such form, containing such information and accompanied by such statements as the Board may require.”
- (8) Subsection (4) above shall apply with respect to any notice served on or after the day on which this Act is passed.
- (9) Subsections (2), (3) and (5) to (7) above shall apply with respect to any notice served after the day appointed for the purposes of section 82 of the Finance (No.2) Act 1987.

## **92 Information powers relating to interest**

- (1) Section 17 of the Taxes Management Act 1970 (interest paid or credited by banks etc. without deduction of income tax) shall be amended as mentioned in subsections (2) and (3) below.
- (2) In subsection (1)—
  - (a) after the words “without deduction of income tax” there shall be inserted the words “or after deduction of income tax”;
  - (b) after the words “the amount of the interest” there shall be inserted the words “actually paid or credited and (where the interest was paid or credited after deduction of income tax) the amount of the interest from which the tax was deducted and the amount of the tax deducted”;
  - (c) paragraph (a) of the proviso shall be omitted.
- (3) The following subsections shall be inserted after subsection (4)—
  - “(5) The Board may by regulations provide as mentioned in all or any of the following paragraphs—
    - (a) that a return under subsection (1) above shall contain such further information as is prescribed if the notice requiring the return specifies the information and requires it to be contained in the return;
    - (b) that a person required to make and deliver a return under subsection (1) above shall furnish with the return such further information as is prescribed if the notice requiring the return specifies the information and requires it to be so furnished;
    - (c) that if a person is required to furnish information under any provision made under paragraph (b) above, and the notice requiring the return specifies the form in which the information is to be furnished, the person shall furnish the information in that form;
    - (d) that a notice under subsection (1) above shall not require prescribed information;

and in this subsection “prescribed” means prescribed by the regulations.

- (6) Regulations under subsection (5) above—

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- (a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons,
  - (b) may make different provision in relation to different cases or descriptions of case, and
  - (c) may include such supplementary, incidental, consequential or transitional provisions as appear to the Board to be necessary or expedient.”
- (4) Section 18 of that Act (interest paid without deduction of income tax) shall be amended as mentioned in subsections (5) and (6) below.
- (5) In subsection (1)—
  - (a) after the words “without deduction of income tax” there shall be inserted the words “or after deduction of income tax”;
  - (b) in paragraph (b) for the words “so paid or received” there shall be substituted the words “actually paid or received and (where the interest has been paid or received after deduction of income tax) the amount of the interest from which the tax has been deducted and the amount of the tax deducted”;
  - (c) for the words “its amount” there shall be substituted the words “the amount actually received and (where the interest has been received after deduction of income tax) the amount of the interest from which the tax has been deducted and the amount of the tax deducted”.
- (6) The following subsections shall be inserted after subsection (3A)—
  - “(3B) The Board may by regulations provide as mentioned in all or any of the following paragraphs—
    - (a) that a person required to furnish information under subsection (1) above shall furnish at the same time such further information as is prescribed if the notice concerned specifies the information and requires it to be so furnished;
    - (b) that if a person is required to furnish information under subsection (1) above or under any provision made under paragraph (a) above, and the notice concerned specifies the form in which the information is to be furnished, the person shall furnish the information in that form;
    - (c) that a notice under subsection (1) above shall not require prescribed information;and in this subsection “prescribed” means prescribed by the regulations.
  - (3C) Regulations under subsection (3B) above—
    - (a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons,
    - (b) may make different provision in relation to different cases or descriptions of case, and
    - (c) may include such supplementary, incidental, consequential or transitional provisions as appear to the Board to be necessary or expedient.”
- (7) Subsections (1) to (3) above shall have effect as regards a case where interest is paid or credited in the year 1991-92 or a subsequent year of assessment.
- (8) Subsections (4) to (6) above shall have effect as regards a case where interest is paid in the year 1991-92 or a subsequent year of assessment.

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### **93 Restrictions on Board’s power to call for information**

- (1) In section 20 of the Taxes Management Act 1970 (powers to call for information), after subsection (7) there shall be inserted—
- “(7A) A notice under subsection (2) above is not to be given unless the Board have reasonable grounds for believing—
- (a) that the person to whom it relates may have failed or may fail to comply with any provision of the Taxes Acts; and
  - (b) that any such failure is likely to have led or to lead to serious prejudice to the proper assessment or collection of tax.”
- (2) This section shall apply with respect to notices given on or after the day on which this Act is passed.

### **94 Donations to charity: inspection powers**

- (1) The Board may require a charity to produce for inspection by an officer of the Board all such books, documents and other records in the possession, or under the control, of the charity as contain information relating to payments made on or after 1st October 1990 and in respect of which the charity has made a claim to repayment of tax by virtue of section 339 of the Taxes Act 1988 (donations to charity by companies) or section 25 of this Act.
- (2) For the purposes of subsection (1) above “charity” has the same meaning as in section 506 of the Taxes Act 1988 and includes—
- (a) each of the bodies mentioned in section 507 of that Act, and
  - (b) any Association of a description specified in section 508 of that Act (scientific research organisations).
- (3) In the second column in the Table in section 98 of the Taxes Management Act 1970 (penalty for failure to furnish information etc.) there shall be added at the end—
- “Section 94(1) of the Finance Act 1990.”

#### *Corporation tax determinations*

### **95 Determinations**

- (1) The following sections shall be inserted after section 41 of the Taxes Management Act 1970—

#### *“Corporation tax determinations*

#### **41A Determination procedure**

- (1) If an inspector is satisfied that a return under section 11 of this Act affords correct and complete information concerning an amount which is—
- (a) required to be given in the return, and
  - (b) determinable under this section,
- he shall determine the amount accordingly.

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- (2) If an inspector is not satisfied that a return under section 11 of this Act affords correct and complete information concerning an amount which is—
  - (a) required to be given in the return, and
  - (b) determinable under this section,he may determine the amount to the best of his judgment.
- (3) If a company is required to deliver a return under section 11 of this Act and fails to deliver the return within the time limited by that section, an inspector may determine any amount which is—
  - (a) required to be given in the return, and
  - (b) determinable under this section,to the best of his judgment.
- (4) An amount shall be treated as determined under this section when the inspector gives notice in writing of the determination to the company which makes, or is required to make, the return.
- (5) After an amount has been determined under this section, the determination shall not be altered except in accordance with the express provisions of the Taxes Acts.
- (6) Section 31 of this Act (except subsection (3)) shall apply in relation to a determination under this section as it applies in relation to an assessment to tax.
- (7) A determination under this section which has become final shall be conclusive for the purposes of the Corporation Tax Acts, except sections 36(3), 41B and 43A of this Act.
- (8) The power conferred by subsection (2) or (3) above includes power to determine that an amount is nil.
- (9) In this section references to an amount which is determinable under this section are references to—
  - (a) the amount of losses incurred in a trade in an accounting period, computed in accordance with section 393(7) of the principal Act; or
  - (b) the amount for an accounting period which is available for surrender by way of group relief under section 403(3) (capital allowances), (4) (expenses of management) or (7) (charges on income) of the principal Act.

#### **41B Reduction of determination**

- (1) Where an inspector discovers that an amount determined under section 41A of this Act is or has become excessive, he may issue a direction that the amount determined shall be reduced by an amount specified in the direction.
- (2) A direction under this section in relation to a determination shall be treated as issued when the inspector gives notice in writing of the direction to the company given notice of the determination under section 41A of this Act.
- (3) Section 31 of this Act (except subsection (3)) shall apply in relation to a direction under this section as it applies in relation to an assessment to tax.

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- (4) Section 41A(7) of this Act shall not apply to a determination at any time when a direction under this section has been issued in relation to the determination and has not become final.
- (5) After a direction under this section has become final, the determination to which it relates shall have effect as if the amount determined were reduced by the amount specified in the direction.
- (6) The power conferred by subsection (1) above includes power to issue a direction which would have the effect of reducing the amount determined to nil.
- (7) In its application to a determination in relation to which a direction under this section has already been issued, subsection (1) above shall have effect with the insertion after the word “Act” of the words “, as reduced by the amount specified in any previous direction under this section in relation to the determination,”.

#### **41C Time limits**

- (1) A determination of an amount may be made under section 41A of this Act at any time not later than 6 years from the end of the period to which the amount relates.
- (2) Subject to subsection (3) below, a direction in relation to a determination may be issued under section 41B of this Act at any time not later than 6 years from the end of the period to which the determination relates.
- (3) A direction in relation to a determination may be issued under section 41B of this Act at any time not later than 20 years from the end of the period to which the determination relates if the excess by virtue of which the power conferred by that section is exercisable is attributable to the fraudulent or negligent conduct of—
  - (a) the company given notice of the determination under section 41A of this Act, or
  - (b) a person acting on its behalf.”
- (2) This section applies in relation to accounting periods ending after the day appointed for the purposes of section 10 of the Taxes Act 1988 (pay and file).

## **96 Consequential group relief adjustments**

- (1) This section applies where—
  - (a) a determination of an amount for an accounting period of a company (“the surrendering company”) is made under section 41A of the Taxes Management Act 1970, and
  - (b) immediately after the determination, or a direction relating to it under section 41B of that Act, becomes final, the amount of relief of any description which the surrendering company consents to surrender by way of group relief for the period (“the surrendered amount”) exceeds the amount which, in relation to relief of that description, is the relevant amount for the period.



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- (2) For the purposes of subsection (1) above, the amount which is, at any time, the relevant amount in relation to relief of any description for an accounting period of a company is—
  - (a) the amount of relief of that description available to the company for surrender by way of group relief for the period, less
  - (b) so much, if any, of that amount as represents relief given in an assessment on the surrendering company which has become final and conclusive.
- (3) The surrendering company shall make whatever adjustment of the surrendered amount is necessary in consequence of the determination or direction (“the necessary adjustment”) by reducing or withdrawing consent to surrender before the end of 30 days from the date on which the determination or direction becomes final.
- (4) If the surrendering company fails to make the necessary adjustment within the period mentioned in subsection (3) above, it shall be made—
  - (a) except where paragraph (b) below applies, in such manner as may be specified by the inspector by notice in writing to the surrendering company and to the company or, if more than one, each company whose claim for group relief is affected by the adjustment, or
  - (b) where the surrendering company gives notice in writing to the inspector within the relevant period, in such manner as may be specified in the notice given by the surrendering company.
- (5) For the purposes of subsection (4)(b) above the relevant period is the period of 30 days beginning with the day on which notice under subsection (4)(a) above is given to the surrendering company.
- (6) The power to make an assessment under section 412(3) of the Taxes Act 1988 (power to assess where inspector discovers that group relief which has been given is or has become excessive) shall also be exercisable where group relief which has been given becomes excessive in consequence of the making of the necessary adjustment.
- (7) Subsection (8) below applies where any tax to which a company (“the chargeable company”) becomes liable in consequence of the making of the necessary adjustment has been assessed on the company and is unpaid at the end of 6 months from the date on which the assessment becomes final and conclusive (“the relevant date”).
- (8) Any other company which has obtained group relief by virtue of a surrender by the surrendering company for the accounting period to which the necessary adjustment relates may, within 2 years from the relevant date, be assessed and charged (in the name of the chargeable company) to an amount not exceeding the lesser of—
  - (a) the amount of the unpaid tax, and
  - (b) the amount of tax which the other company saves by virtue of the surrender.
- (9) A company paying an amount of tax under subsection (8) above shall be entitled to recover from the chargeable company a sum equal to that amount together with any interest on that amount which it has paid under section 87A of the Taxes Management Act 1970.
- (10) An assessment by virtue of subsection (6) above shall not be out of time if made within one year from the date on which the determination or direction giving rise to the making of the necessary adjustment becomes final.

- (11) In subsection (1)(b) above, the reference to the amount of relief of any description which the surrendering company consents to surrender by way of group relief for the period includes a reference to the amount of relief of that description which the surrendering company consents to surrender for any assumed accounting period under section 409 of the Taxes Act 1988 (companies joining or leaving group or consortium) which is comprised in the period.
- (12) In section 87A of the Taxes Management Act 1970 (interest on overdue corporation tax etc.) in subsection (3) after the words “1970” there shall be inserted the words “, section 96(8) of the Finance Act 1990”.

### *Claims by companies*

#### **97 Payment of tax credits**

- (1) Section 42 of the Taxes Management Act 1970 (claims) shall be amended as follows.
- (2) In subsection (5) (form of claims) there shall be inserted at the beginning the words “Subject to subsection (5A) below,”.
- (3) The following subsection shall be inserted after subsection (5)—
- “(5A) A claim by a company for payment of a tax credit shall be made by being included in a return under section 11 of this Act.”
- (4) The following subsection shall be inserted after subsection (10)—
- “(10A) In subsection (5A) above—
- (a) the reference to a claim for payment includes a reference to a claim resulting in payment; and
- (b) the reference to a claim being included in a return includes a reference to a claim being included by virtue of an amendment of the return.”
- (5) This section applies in relation to claims relating to income of accounting periods ending after the day appointed for the purposes of section 10 of the Taxes Act 1988 (pay and file).

#### **98 Repayment of income tax deducted at source**

- (1) The Taxes Act 1988 shall be amended as follows.
- (2) In section 7(2) (set off against corporation tax of income tax deducted from payments received by resident companies) the words from “and accordingly” to the end shall be omitted.
- (3) The following subsections shall be inserted after section 7(5)—
- “(6) A claim for the purposes of subsection (5) above, so far as relating to subsection (2) above and section 11(3), shall be made by being included in a return under section 11 of the Management Act (corporation tax return) for the period to which the claim relates.
- (7) In subsection (6) above the reference to a claim being included in a return includes a reference to a claim being included by virtue of an amendment of the return.”

- (4) In section 11(3) (set off against corporation tax of income tax deducted from payments received by non-resident companies) the words from “and accordingly” to the end shall be omitted.
- (5) This section applies in relation to income tax falling to be set off against corporation tax for accounting periods ending after the day appointed for the purposes of section 10 of the Taxes Act 1988 (pay and file).

## **99 Loss relief**

- (1) The Taxes Act 1988 shall be amended as follows.
- (2) In section 393 (relief for trading losses) in subsection (1) (carry forward of losses on the making of a claim)—
  - (a) for the words “the company may make a claim requiring that the loss” there shall be substituted the words “the loss shall”, and
  - (b) for the words “on that claim” there shall be substituted the words “under this subsection”;and in subsection (11) (time limit for claims) the words from the beginning to “of six years; and” shall be omitted.
- (3) In section 396 (relief for Case VI losses on the making of a claim)—
  - (a) in subsection (1) for the words “the company may make a claim requiring that the loss” there shall be substituted the words “the loss shall”, and
  - (b) subsection (3) (time limit for claims) shall cease to have effect.
- (4) This section applies in relation to accounting periods ending after the day appointed for the purposes of section 10 of the Taxes Act 1988 (pay and file).

## **100 Group relief: general**

- (1) The Taxes Act 1988 shall be amended as follows.
- (2) In section 412 (group relief: claims and adjustments) the following subsection shall be substituted for subsections (1) and (2)—

“(1) Schedule 17A to this Act (which makes provision with respect to claims for group relief) shall have effect.”
- (3) The Schedule set out in Schedule 15 to this Act shall be inserted after Schedule 17.
- (4) This section has effect as respects claims for group relief for accounting periods ending after the day appointed for the purposes of section 10 of the Taxes Act 1988 (pay and file).

## **101 Group relief: relieved losses.**

- (1) The following section shall be inserted after section 411 of the Taxes Act 1988—

### **“411A Group relief by way of substitution for loss relief**

- (1) Group relief may be given in respect of a loss notwithstanding that relief has been given in respect of it under section 393(1).

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- (2) Where group relief in respect of a loss is given by virtue of subsection (1) above, all such assessments or adjustments of assessments shall be made as may be necessary to withdraw the relief in respect of the loss given under section 393(1).
  - (3) An assessment under subsection (2) above shall not be out of time if it is made within one year from the date on which the surrendering company gave the inspector notice of consent to surrender relating to the loss.
  - (4) For the purposes of this section relief under section 393(1) shall be treated as given for losses incurred in earlier accounting periods before losses incurred in later accounting periods.”
- (2) This section has effect as respects claims for group relief for accounting periods ending after the day appointed for the purposes of section 10 of the Taxes Act 1988 (pay and file).

#### **102 Capital allowances: general**

- (1) The Capital Allowances Act 1990 shall be amended as follows.
- (2) The following section shall be inserted after section 145—

**“145A Corporation tax allowances: claims**

Schedule A1 to this Act shall have effect.”

- (3) The Schedule set out in Schedule 16 to this Act shall be inserted before Schedule 1.
- (4) This section has effect as respects claims for allowances falling to be made for accounting periods ending after the day appointed for the purposes of section 10 of the Taxes Act 1988 (pay and file).

#### **103 Capital allowances: assimilation to claims by individuals**

- (1) Schedule 17 to this Act (which amends the Capital Allowances Act 1990 for the purpose of assimilating claims by companies to claims by individuals) shall have effect.
- (2) This section has effect as respects allowances and charges falling to be made for chargeable periods ending after the day appointed for the purposes of section 10 of the Taxes Act 1988 (pay and file).

*Miscellaneous*

#### **104 Officers**

- (1) In section 1 of the Taxes Management Act 1970 (appointment of inspectors etc.) the following subsections shall be inserted after subsection (2)—
  - “(2A) The Board may appoint a person to be an inspector or collector for general purposes or for such specific purposes as the Board think fit.

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- (2B) Where in accordance with the Board’s administrative practices a person is authorised to act as an inspector or collector for specific purposes, he shall be deemed to have been appointed to be an inspector or collector for those purposes.”
- (2) In section 55 of that Act (recovery of tax not postponed)—
- (a) in subsection (7) for the words “the inspector” there shall be substituted the words “an inspector”;
  - (b) in subsection (10) for the words “this section”, in the first place where they occur, there shall be substituted the words “subsection (3) above”.
- (3) The amendment made by subsection (1) above shall be deemed always to have had effect.
- (4) The amendments made by subsection (2) above shall apply where notice of appeal is given on or after the day on which this Act is passed.

#### **105 Recovery of excessive repayments of tax**

- (1) In section 30 of the Taxes Management Act 1970 (recovery of excessive repayments of tax) the following subsection shall be inserted after subsection (1)—
- “(1A) Subsection (1) above shall not apply where the amount of tax which has been repaid is assessable under section 29 of this Act.”
- (2) This section applies in relation to amounts of tax repaid on or after the day on which this Act is passed.

#### **106 Corporation tax: collection**

In section 10 of the Taxes Act 1988 (time for payment of tax) the following subsection shall be substituted for subsection (2)—

- “(2) Where by virtue of subsection (1)(a) above corporation tax for an accounting period of a company is due without the making of an assessment, the amount for the time being shown in a return by the company under section 11 of the Management Act (corporation tax return) as the corporation tax for the period shall be treated for the purposes of Part VI of the Management Act (collection and recovery) as tax charged and due and payable under an assessment on the company.”